

REMARKS

Reconsideration of this application is requested.

The allowance of Claims 1 through 7 is noted with appreciation.

The informalities in Claim 1 and 2 noted by the Examiner have been corrected in the present amendment. Additionally, Claim 8 has been amended to more precisely define a condom to encircle and be cinched around the base of a penis and secured thereto to more positively define the nature of the condom and better distinguish from the cited art.

The new Claims 13 through 25 are likewise believed to patentably define over the cited art and will be discussed subsequently.

In addition to the features defined in Claims 1 through 7 and as recognized as allowable by the Examiner, a further key feature of the present invention is in providing a penis condom which can be comfortably reasonably firmly attached to the penis, preferably at or near the base thereof, and preferably so as to encircle and be cinched around the penis. A particularly simple and effective way of accomplishing this is by the use of a drawstring and locking assembly at the upper end of the condom.

The failing of prior devices like Eckenrode and Moss is that they do not securely hold the user's penis in the condom, and as a result since the penis moves sideways, forwards and backwards as the user goes about his daily life, the penis has a tendency to slip out of this unrestricted condom.

This is particularly true in Eckenrode which has the curved funnel shaped member 36 which is made from a rigid material such as hard rubber (page 2, column 1, lines 56 – 57). In neither of Eckenrode nor Moss is the condom designed to nor able to be secured about the penis. All of Claims 8 through 25 define in somewhat different language this feature of the present invention. This feature along with the condom being supported by a waistband are important features. Applicant has had prostate surgery and knows many other men who also have, and is fully aware of the problems with devices like Eckenrode and Moss. He also is familiar with catheter-type devices as disclosed by Cawood which involve the use of a device connected to a urethral catheter. Obviously, this patent does not disclose anything similar to the subject matter of Claims 8 through 25

The penis slippage problem is obviated by the very simple and elegant quick release and locking draw string assembly of the present application, and that holds the penis comfortably and securely without slipping out of the penis condom. The quick release locking mechanism (e.g., 42 in Figure 4) allows a user who may have limited dexterity (i.e., stroke patient, amputee, severe arthritis in the hands, old age, accident victim, and the like) to easily and effortlessly cinch the penis condom completely around the penis while using only one hand. This takes only a couple of seconds and the adjustment can go from several inches in diameter to as small as one fourth inch in diameter, thus providing a “one size fits all” condom which will fit the majority of flaccid mens’ penises in the world without any discomfort, leakage, pressure, slippage or various other problems associated with the other incontinent devices currently on the market.

In particular, and with reference to Figure 7 of the present application for example, the drawstring and locking device assembly allows the condom to be easily cinched around the base of the penis and with a small space (such as 1/8 inch) if desired to minimize pressure or pain, but still allows the condom to move up and down the penis except when the glans penis ridge comes into contact with the drawstring end of the condom whereupon it will stop and not slide off, because this natural 1/4 inch to 1/2 inch ridge in the male penis will not allow penis slippage out of the condom, thereby obviating the user becoming soiled, embarrassed, and/or humiliated. The device of the present invention allows each user to restore his quality of life and joy back again in a very short period of time.

It is noted that Swinn in Patent No. 3,032,038 cited by Applicant discloses the use of a string (i.e., cord 12) tied on a tubular member 11, the cord having only free ends which can be tied. Beatty No. 3,298,370 shows an elastic drawstring 6. There is no disclosure in either of a drawstring and lock assembly as disclosed and claimed in the present application, nor any disclosure of the combination of Applicant's type of penis condom and its attachment to a waistband as disclosed and claimed herein. Also, it is noted that Tucker Patent No. 5,921,914 also cited by Applicant discloses lines 38 and 40 for extending around the base of a penis, but for an entirely different purpose and function – namely, to constrict the penis and entrap the flow of blood therein for maintaining an erection. There certainly would be no incentive nor suggestion to use such a device in the present application and, furthermore, there likewise is no teaching of the condom support, nor even a condom for that matter, via a waistband.

There are other deficiencies in the cited art. For example, the Eckenrode device must be assembled and adjusted each time the user puts it on in order for it to fit correctly and comfortably. Furthermore, although Eckenrode discloses a body piece 18 of soft rubber and a flange 33 of thin, flexible rubber, still the apparatus comprising these components and the funnel shaped member formed of rigid material such as hard rubber does not securely hold the user's penis in one position such that it has a tendency to slip out of this unrestrictive condom.

Furthermore, with regard to the Moss device, it appears to be one that would be very difficult to utilize for the user because of its numerous strings that need to be wrapped around the user's body, and the weight of the device would tend to cause the strings to cut into the user's waist, thighs and the like because of its basic design and relatively thin strings. It is to be noted that although Moss discloses the use of string D, this is only provided to hang the device to the waist, and in no way teaches a condom which can encircle and be cinched around the penis. The user's penis simply goes into the collar C, and is not securely held in place, thus allowing the penis to easily slip out of this collar.

Turning again to Claims 8 through 25, independent Claim 8 specifically defines "the penis condom further including an upper end having a drawstring assembly for allowing the upper end of the condom to encircle the base of a penis and secured thereto. No like nor similar construction is disclosed nor taught in the cited art. Independent Claims 13 and 22 include similar language. Again, no like nor similar structure as claimed is taught by nor made obvious by the cited art. The remaining dependent claims add further details to their respective independent claims.

None of the art discloses the combination of a waistband, reservoir, condom sheath and penis condom as defined wherein the reservoir is attached to the waistband, the condom sheath is secured to the waistband, the condom sheath contains a penis condom, and wherein the penis condom is constructed to be cinched around the penis and secured comfortably thereto via a draw string assembly. The art in this application simply does not disclose nor make obvious that particular combination which Applicant believes to be extremely useful for the male incontinence problem.

Furthermore, the prior art does not disclose a universal adapter as taught and claimed herein. For example, the Eckenrode patent merely discloses a swivel coupling that can only fit one size tubing. The universal adapter of the present application allows for several different size tubing connections that are commonly utilized in the United States and around the world, and allows a patient to utilize the present device while being bedridden because of chronic illness, accident or surgery, or the like, for an extended period of time thus eliminating the need for catheterization and the possibility of reoccurring infections in the bladder and kidneys. It is known that patients that have been catheterized for longer than three to six weeks have a tendency for major chronic bladder and kidney infections potentially resulting in kidney failure and death.

In view of the foregoing, it is respectfully submitted that all of the claims in the present application define patentable subject matter over the art, and a Notice of Allowance is earnestly solicited.

The Commissioner is authorized to charge Counsel's Deposit Account No. **150665** in the amount of \$55.00 to cover the one-month extension fee and \$45.00 for the presentation of new claims, and is authorized to charge any additional fees that may be required and to credit any overpayments to said Deposit Account **150665**.

Respectfully submitted,

Orrick, Herrington & Sutcliffe-LLP

Dated: July 28, 2003

By: 

Samuel B. Stone
Attorneys for Applicant
Reg. No. 19,297

4 Park Plaza
Irvine, California 92614-2558
(949) 567-6700